THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE C.V. RAMULU

Date: 06—10—2005

W.A. No. 1945 of 2005

Between:

K. Sanjeeva Rao

…Petitioner.

A n d

The Managing Director,

A.P. State Road Transport Corporation,

Administrative Office, RTC-X-Road, Hyderabad and

another.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

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W.A. No. 1945 of 2005

O R D E R: (per Sri B. Sudershan Reddy, J)

The impugned order passed by the learned single Judge, vacating the stay initially granted by this Court, requires modification. The impugned demand notice required the appellant herein to pay the arrears of licence fee to a tune of Rs.29,613/- for the period from 17.12.2003 to April 2004.

In the counter affidavit filed by the respondent-Corporation, it is stated that the writ appellant having taken over the premises and started business of jewellery with effect from 21.3.2004 instead of sanitary and hardware, as he entered into agreement only on the plea of non-change of business, is required to pay the demanded amount.

The question is whether the petitioner is liable to pay the arrears of licence fee from 17.12.2003 to April 2004.

Even according to the respondent-Corporation, the possession of the premises was delivered only on 21.3.2004. Therefore, prima facie, the petitioner is not liable to pay the amount from 17.12.2003 to April, 2004. In the circumstances, the petitioner is entitled to the interim order as prayed for, which is initially granted by this Court. However, the question as to whether the petitioner is liable to pay the amount from the date of execution of the licence deed notwithstanding the fact that the possession of the premises was not delivered to him, is required to be gone into in the writ petition. Balance of convenience, undoubtedly, is in favour of the appellant as it stands.

For the aforesaid reasons, the impugned order passed by the learned single Judge is set aside.

In the result, the writ appeal is allowed. The respondents are directed not to give effect to the impugned notice dated 4.11.2003 pending disposal of writ petition.

Expedite the hearing of the writ petition. In the meanwhile, the learned standing counsel undertakes to file additional counter affidavit.

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B. Sudershan Reddy, J.

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C.V. Ramulu, J.

Date: 06—10—2005.

MVB.